

MEDIATOR EXCELLENCE COUNCIL
Meeting Summary
January 29, 2007

Present: Ramona Buck, MACRO; Lou Gieszl, MACRO; Nancy Hirshman, MCDR; Pat Jackson, Consumer Representative; Cheryl Jamison, Staff to the MEC; Trish Miller, ADR Section, MSBA; Liz Ribas, Training Task Group; Jonathan Rosenthal, Vice Chair of the MEC & District Court; Tara Taylor, Chair of the MEC & Roster Managers; Toby Treem Guerin, Mentoring Task Group; Mae Whitehead, Consumer Education Task Group; Roger Wolf, Ethics Task Group

Next Meeting: Monday, February 26, 2007 1:30 p.m. – 4:00 p.m., Judicial Education and Conference Center, Annapolis. This was later changed to MACRO.

Issues to be discussed and/or decisions to be made at the next meeting:

- Report from the Nuts and Bolts Committee – MPME-Related Training and Educational Opportunities – 3rd Discussion
- Training Task Group – Best Practices Basic Mediation Training

1. Opening Round

The opening round included New Year's greetings and a round of new baby pictures. Tara, as the new Chair, thanked the MEC for this opportunity and indicated she was excited about the New Year. She also thanked Toby for her hard work and example as the first Chair.

2. Status of the Diversity Root

Cheryl announced that the Diversity Root would be holding its organizational meeting on Wednesday, January 31, 2007 from 12:30 p.m. – 2:30 p.m. at MACRO. This was the first opportunity for MPME members to respond to an invitation to get involved and 20 people are expected to attend the meeting. A summary of the meeting will be distributed to MEC members when it becomes available.

Cheryl also indicated that she will be sending out information about MPME Task Group meetings to members so that they can get involved.

3. Report from the Nuts and Bolts Committee – MPME-Related Training & Educational Opportunities

Jonathan presented the revised proposal from the Nuts and Bolts Committee regarding MPME proposals. Jonathan indicated that the revised proposal to establish the MPME-Generated Proposal Review Committee was developed after hearing the comments about the MPME Related Training & Educational Opportunities proposal discussed at the previous meeting. The proposal appears below and is followed by a summary of the discussion.

Proposal from the Nuts and Bolts Committee To Establish the MPME-Generated Proposal Review Committee

The MPME requires members to participate in four (4) mediation-related activities per year. Some examples of those activities are workshops, seminars, conferences, trainings, small case discussion groups and educational programs that are mediation related and held by a variety of groups including roster programs, practitioner organizations, private trainers, and community mediation centers. Various components of the MPME (such as task groups and committees represented as roots, branches and leaves on the MPME tree) will also be offering opportunities for members to participate in such activities.

To provide oversight and coordination to the MPME's process for developing and implementing mediation-related activities, the Mediator Excellence Council establishes the MPME-Generated Proposal Review Committee.

Purpose: The MPME-Generated Proposal Review Committee would review and approve proposal for mediation-related activity and/or educational opportunity generated from **within** the MPME. The work of this Committee relates only to activities offered directly by the MPME and not activities offered by private trainers, roster programs, community mediation centers, educational institutions or other non-profit organizations.

Goal: To provide an effective review and approval process for MPME generated proposals for mediation-related activities and/or educational opportunities. Proposals presented to the Committee will include a description of the activity and/or educational opportunity, the number of times it would be offered, the location(s) where it would be offered, how the provider would be selected, and the cost of training and/or payment to the provider. The Committee will have the authority to approve or not approve a proposal. It is expected that the Committee will provide technical assistance so that deficiencies can be corrected.

Composition: The MPME-Generated Proposal Review Committee shall be comprised of the following members:

- Three (3) At-Large Members: A call will go out to the MPME membership, indicating the establishment of the Committee and requesting those interested to respond to the Quality Assistance Coordinator. Based on the responses received, the Nuts and Bolts Committee will make the selection keeping in mind the desire to have a diversity of representation.
- A MACRO representative
- A representative from the Training Task Group
- MACRO's Budget and Grants Director (currently Alecia Parker) will serve as a non-voting resource for the Committee to assist with questions related to the Judiciary's procurement process.
- The Quality Assistance Coordinator will chair the Committee as a non-voting member.

Administrative/Procedures: Once the Committee is established it will develop procedures necessary to accomplish the above purpose and goal including meeting schedule, guidelines regarding the length of terms and the selection of the At-Large Members, the process for submitting proposals to the Committee and other administrative decisions necessary to function.

Reports to the MEC: The MEC will receive regular written reports indicating the action taken by the Committee to include proposals submitted, a brief description and the disposition. The MEC can request a report whenever it feels appropriate.

Review: The work of the Committee shall be reviewed by the MEC at least once a year.

END OF PROPOSAL

- Jonathan pointed out that this committee would only be reviewing proposals which were generated within the MPME. They would not be reviewing any proposal from outside sources.
- Jonathan also called to MEC Member's attention the composition of the committee, indicating that with 3 At-Large members this would be a good opportunity to get other mediators involved in the MPME. He explained that the reason MACRO's Budget and Grants Director was added as a resource, non-voting, member of the Committee is to provide assistance in navigating the state's procurement process.
- Purpose: 3rd Line – It was suggested to change “offered” to “sponsored”

The MEC approved the proposal by consensus with the change listed above under Purpose. **The MPME-Generated Proposal Review Committee was established.**

4. An Email to Trainers encouraging the development of continuing training and educational opportunities.

As part of the discussion around the proposal for the MPME-Generated Proposal Review Committee, the Nuts and Bolts Committee drafted an email for distribution to Mediation Trainers in Maryland. The purpose of the email is to encourage trainers to develop trainings that would help MPME members satisfy completing 4 mediation related continuing education/training requirement each year. The draft email appears below, followed by a summary of the discussion.

Draft Letter to Mediation Trainers in Maryland

Dear Trainers,

We are writing this letter to mediation trainers in Maryland to alert you to the opportunities and expanded markets that the Maryland Program for Mediator Excellence (MPME) provides for trainers.

The MPME is off to a great start with almost 200 members as of January, 07. As you may know, MPME members are required to participate in four mediation related activities per year. The MPME does not certify trainings or mediation related activities. Instead, at the conclusion of each year, all MPME members will be reporting on the mediation related activities they have participated in during the previous year. Some activities they list may be workshops, seminars, conferences, trainings, small case discussion groups, etc. These activities may have occurred within Maryland or elsewhere, and may be offered by an institutional mediation roster program such as a court, by a private trainer, or by the MPME, to name a few examples.

We encourage you to design and offer mediation-related activities for mediators throughout Maryland. We are hoping that such educational opportunities will encourage mediators to continue to grow and learn more about mediation all the time. You might wish to post the following wording somewhere on your program for such activities:

The MPME does not certify trainings. MPME membership requires four mediation-related activities per year for its members. This program is a mediation-related activity and may be used to fulfill one of the four activities required annually for continued MPME membership.

The term, “mediation-related activity” is not narrowly defined at this time in order to foster creative responses and to see what people will submit. You are encouraged to design activities that you think will be of interest to mediators, will really help them to improve the quality of their work, and that are do-able. Incidentally, we welcome all of you to be members of the MPME, as well.

We hope that you, the mediation trainers in Maryland, will see this as a wonderful opportunity in the year ahead.

END OF DRAFT EMAIL

A summary of the discussion concerning the proposed email is below.

1. Purpose of the email is to encourage trainers to develop more continuing skills training & educational opportunities.

- It would be good to determine ways to encourage trainers to provide more training.
- This was thought of as a means of assisting trainers and maybe getting more continuing ed training. We cannot assure that trainers will provide additional training or that all of it will be high quality. The purpose of the letter was to get trainers involved.

- Perhaps there are ways to encourage trainers without sending this type of letter.
- The words “expanding markets” in the 1st sentence may not be appropriate because MPME is not really expanding the markets. The members’ requirements make continuing skills and education a potential.

2. Certifying Trainers

Will the MPME certify trainers and if not, how can we “improve mediation” if anyone can provide mediation training which satisfies the continuing skills improvement requirement?

- The Training Task Group is working on trainer standards for Basic Mediation Training. They plan to move to advance and continuing education training later.
- ACR has decided to tackle the issue of certifying trainers because they have found that trying to certify each program is unmanageable.
- Does the fact that a class, course or training appears on the MPME website or that it can be used to satisfy the member requirement, imply that it is high quality training? There will need to be some type of disclaimer on the MPME website.

3. The draft reads as follows:

The MPME does not certify trainings. MPME membership requires four mediation-related activities per year for its members. This program is a mediation-related activity and may be used to fulfill one of the four activities required annually for continued MPME membership.

The following comments relate to the above language:

- Who can use the language? Are we suggesting to anyone who has a mediation-related training to use this language?
- The language says that the training may be used to fulfill the MPME member requirement. Should it be “shall” or is the intent that it may or may not? Since we have no way of knowing what is out there, the intent is may be used.
- So that means that a trainer could put on a training and then find out later that it cannot be used to meet the MPME requirement. Not sure a trainer would want to take the risk of finding out after the fact that the program does not satisfy the requirement.
- We would be allowing trainers, regardless of their qualification, to use this language.

- The first sentence states that the MPME does not certify trainers. Is that enough of a disclaimer?
- What happens if a trainer wants a copy of the MPME mailing list to send out his or her own information? They would be told to provide us the information and we will send it to our members. We would not give out mailing list.
- There was a concern about sending it to “all Maryland trainers” because we may miss some, even using MACRO’s listserve. Maybe this should just go to MPME members since this relates to the MPME program.

The Nuts and Bolts Committee will go back and consider the comments which have been made.

5. Report from the Training Task Group – Best Practices for Basic Mediation Training

Liz presented revisions to the Proposed Best Practices for Basic Mediation Courses based on the comments made during our last discussion. She noted that the Task Group had not addressed the Evaluation Process, Post Training and Training Standards. The actual proposal submitted for discussion is below followed by a summary of the discussion.

Proposal by the Training Task Group Best Practices for Basic Mediation Training

Background Statement

In late 1999, the Maryland ADR Commission, under the leadership of Chief Judge Robert M. Bell, published *Join the Resolution*, a consensus-based practical action plan to advance the appropriate use of mediation and conflict resolution statewide. There was only one major area in which consensus could not be reached; that was mediator quality assurance. The ADR Commission decided that further study and consensus building was needed on this topic and as a result, MACRO convened a quality assurance committee. The committee members were representatives of the four ADR practitioner groups; the MD Chapter of the Association for Conflict Resolution (ACR), the MD Council for Dispute Resolution (MCDR), Community Mediation Maryland (formerly the MD Association of Community Mediation Centers), the MD State Bar Association’s ADR Section and MACRO. The committee, with the participation of hundreds of people from around the state and across the country, collaboratively designed a quality assistance system, called the Maryland Program for Mediator Excellence.

The Maryland Program for Mediator Excellence (MPME) is designed to offer all Maryland mediators opportunities to improve the quality of their practice. The symbol for the Maryland Program for Mediator Excellence (MPME) is a tree with many branches and roots,

providing members with stimulating choices to continue their learning, growth and experience as mediators

The Mediator Excellence Council (MEC) is the governing body of the Maryland Program for Mediator Excellence. The MEC is currently comprised of representatives from: the MD Chapter of the Association for Conflict Resolution (ACR); the MD Council for Dispute Resolution (MCDR); Community Mediation Maryland (formerly the MD Association of Community Mediation Centers); the MD State Bar Association's ADR Section and MACRO. There are also representatives from the circuit and district courts, a roster program and a consumer representative. The Chair of each of the MPME Task Groups also sits on the council.

PREAMBLE

The Training Task Group has as its goal the development of Best Practices for Basic Mediation and Advanced Mediation Training. The following Best Practices for Basic Mediation is offered by the Maryland Program for Mediator Excellence (MPME) to assist mediation trainers in designing training in basic mediation. It can also serve as one source of information for consumers in Maryland interested in basic mediation training.

The practices articulated in this document represent the acquired wisdom of the mediation community in Maryland and research within the larger mediation community outside Maryland with regard to this issue. These best practices emerged through collaborative conversation among Maryland trainers in meetings and discussions hosted by the MPME Training Task Group. It is noteworthy that empirical support for training standards is embryonic, an enterprise ripe for research (see, for example, "Bibliography" to *Mediator Quality Assurance: Final Report to the Maryland Mediator Quality Assurance Oversight Committee* by Charles Pou, Jr. contact MACRO at 410-841-2260). The best practices represented in this document may be revised as future research develops new knowledge in this area.

It is in the nature of a best practice document to be aspirational. Trainers may not always be able to meet all the best practices indicated here during any particular training. It is hoped that trainers will use this document as both a guideline and an invitation to reflect on possibilities for designing training programs that prepare trainees to mediate competently.

Best Practices for Basic Mediation Training

CLASS SIZE & RATIOS

The following Best Practices are based on a class size that is *small* enough to allow for individual attention, a safe learning environment, and the greatest opportunity for all trainees to fully participate. They are also based on a class that is *large* enough to have a variety of participants from various backgrounds that will encourage good discussion and offer enough trainees to be able to practice the skills taught.

Training Component	Best Practice Recommendations
Trainer to trainee ratio	1:12 trainer to trainee/participant ratio
Number of coaches for role plays	1 trainer/coach per role play group

TRAINING TIMEFRAME

The Best Practices time frame recommendations reflect the concern that knowledge be taught in a manner that helps trainees move as quickly from the classroom to actual mediating as possible, reflecting the view that mediation is a craft best learned by practicing the skills taught. They also reflect the knowledge that training can be presented in a variety of formats, including multiple stage basic training, semester long courses, multiple weekends, and week long intensives.

Training Component	Best Practice Recommendations
Training Hours	40+ hours of classroom training
Timeframe in Which Training Occurs	The 40+ hour classroom training should be completed within <i>30 calendar days</i> with the exception of semester long courses which by design last several months
Link with Practical Experience	Trainers or training programs should provide a link between classroom training and practical experience such as observations or co-mediation.

CURRICULUM

Best Practices for training curriculum recognizes there are a variety of skills and lessons taught in mediation training courses. Trainers and training programs should be aware of the diversity and differences among trainees and clients and adapt their programs accordingly.

Training Component	Best Practice Recommendations
Mediation Orientation	An explanation of the mediation style/orientation/methodology based on the particular process that is being taught in the course
Overview of ADR	This should include: <ul style="list-style-type: none"> History of ADR; Information on national, state and local practitioner groups, resources and networks, in writing when possible. Overview of ADR processes including arbitration, mediation, med-arb,

	<p>settlement conference, neutral case evaluation, conciliation, litigation (refer to ADR definitions in the ADR Commission report and the definitions developed by the MEC Definitions Task Group.</p>
Ethics and Standards	<ul style="list-style-type: none"> ▪ Approved Maryland Standards of Conduct for Mediators to be presented to trainees verbally and in writing. The Standards include sections on: <ol style="list-style-type: none"> 1. Self Determination 2. Impartiality 3. Conflicts of Interest 4. Competence 5. Confidentiality 6. Quality of the Process 7. Advertising and Solicitation 8. Fees and Other Charges 9. Advancement of Mediation Practice (See the Maryland Standards of Conduct for Mediators) ▪ The trainees to participate in role plays specifically crafted to address more than one ethical dilemma and have structured processing sessions afterwards to discuss and debrief. ▪ The ethical standards also to be woven throughout the basic mediation training in discussion, examples and exercises. ▪ Trainers should make trainees aware that standards and practices vary across venues. ▪ Trainers preparing trainees for a specific venue should cover the standards of that venue in the training.
Mediator Skills and Strategies	<p>Some topics and/or mediator skills and strategies to include are: Listening; Reframing; Open ended questioning; Reflecting; Summarizing; Verbal and nonverbal communication; Feedback; Barriers to communication; Identification of feelings and positions, values, interests and issues; Brainstorming; Problem-solving; Negotiation; Empowerment; Power dynamics;</p>

	Use of Separate Sessions; Screening cases for violence/abuse issues; Writing agreements; Conflict de-escalation, Anger management, etc.
Theory	Some topics to cover include: Philosophy of particular mediation frameworks; Self-determination; Styles of communication and conflict; types of conflict; Different conflict resolution theories; Social, anthropological and/or related legal studies or theories.

TRAINING TECHNIQUES

People learn in different ways. To meet Best Practices recommendations trainers should use a variety of training techniques, learning styles, and presentation formats to effectively connect trainees with the principles of basic mediation. Techniques used should develop skills identified in the previous curriculum section as well as encourage community building, risk-taking, and self-reflection. One of the most important techniques is role-play, as it gives trainees practical experience in mediation. Acknowledging that different trainers will have varying definitions of the components of a role-play, specific components of Best Practices should include the following:

Techniques:

An **experiential training technique or exercise** is a structured activity that focuses on a particular component of the training, that involves the trainees and that requires interaction between individuals.

Training Component	Best Practice Recommendations
Training techniques which should be included in the training	Demonstration, Discussion, Feedback, Lecture, Questions & Answers, Mediation Role Plays
Percentage of Experiential Training Techniques	More than 50% of the training techniques should be experiential, including role plays. Examples of experiential techniques include: small and large group activities, mock practice sessions, partner feedback sessions, skill drills
Other Techniques for Possible Inclusion	Videos, read-arounds, writing and reading assignments, storytelling

Role-Plays:

A **mediation role play** is an exercise in which all or some components of a mediation are simulated and in which one or more trainees play the mediator and one or more trainees play the disputant(s) in a conflict

Training Component	Best Practice Recommendations
Number of Role plays	Each trainee should participate in no fewer than four role plays, one of which should be a full mediation role play in the role of mediator. A full mediation role play includes all components and/or steps of the mediation process being taught.
Participation in the Mediation Role plays	A variety of topics/themes/levels of conflict should be used in the role plays.
Number and role of coaches	There should be 1 trainer/coach per role play group to provide oral feedback. Each trainee should be observed in the role-plays and receive feedback from at least two trainers/coaches throughout the course of the training throughout the training course.

COACHES

Training Component	Best Practice Recommendations
Selection of Coaches	Coaches should be experienced mediators and should be selected by the trainer(s).
Preparation of Coaches	Coaches should have previous experience in coaching with the trainer(s) or should participate in a pre-briefing session with the trainer(s) to coordinate coaching requirements, style and feedback.
Activities of Coaches	Coaches should offer clear feedback to trainees, identifying strengths and specific action steps for areas needing improvement. Coaches should also give clear feedback to the trainer about the observed trainees.

NOTE: The Training Task Group will address the following sections of the proposal at our next meeting scheduled for Monday, February 5, 2007 from 1 to 3 in Severna Park. Anyone interested in attending is welcome.

Evaluation Process,

**Post Training
Trainer Standards.
Marketing**

END OF PROPOSAL

Here is a summary of the discussion, which took place.

1. The section on Role-Play (page 5)

- It indicates that the trainer must complete one full mediation role play and defines a full mediation role play as one that includes all components and/or steps of the mediation process being taught. Does this include agreement writing? This may be setting up an unrealistic expectation. Maybe there should be a separate component dealing with agreement writing. All agreed that trainers should spend time working on agreement writing but it may be best to include it in another portion of the training.
- This section might need to be re-worked because transformative mediation may or may not incorporate all of these at any one mediation.
- The following language was suggested for clarification: instead of “Each trainee should participate in no fewer than four role plays..” change to “Each trainee should participate **as mediator or disputant** in no fewer than four role plays...”
- In the “Participation in the Mediation Role Plays” section add ethical situations as an area that should be covered in role plays.

2. Link with Practical Experience (page 3)

- Delete “co-mediation” and insert “other mediation processes”

3. Under Ethical Standards (page 3 and continued on page 4)

- This should be clear that we are talking about the Maryland Standards of Conduct for Mediators, as approved by the MEC and not the Maryland Standards of Conduct for Mediators, Arbitrators and Other ADR Practitioners.

4. Training Hours (page 3)

- This leaves the impression that the 40 hours must be done in one class and there are trainers who cover this material in two 20-hour classes instead of one 40-hour class, how would this affect them? Suggest changing the language to indicate that this could be satisfied by two 20-hour trainings.

5. Ratio of 1:12 Trainers (page 2)

- Does this mean that this ratio must be maintained during the entire training or just when activities such as role play and experiential training is taking place? Why would you need to maintain this ratio during the lecture portion?

6. Coaches (page 6)

- Define who can be a coach

7. General Comments

- It was acknowledged that the Training Task will be working on the Trainers Standards portion of this document.
- In an earlier discussion it was mentioned that government agencies and others looking for trainers may use the Best Practices document as a means of selecting a selection. It is possible that adhering to the best practices could put trainers in the position of submitting a higher bid and therefore be priced out of the market.
- If government and other agencies want the higher standards, they should be willing to pay for them.
- Should we be developing best practices based on what is already being done or based on what we really believe to be best practices?

The Training Task Group will take these comments and continue working.

Meeting ended at 4:00 p.m.